

United States Senate

WASHINGTON, DC 20510

July 12, 2018

The Honorable Joseph Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons:

We write to express our concerns about the consumer privacy issues raised by the proliferation of smart TV technology. While the evolution of the smart TV has ushered in a new era of innovation and interactivity, we must ensure that these technological advancements do not come at the expense of our privacy. We request that the Federal Trade Commission (FTC) continue its previous work on smart TVs and launch an investigation into the privacy policies and practices of smart TV manufacturers.

Many internet-connected smart TVs are equipped with sophisticated technologies that can track the content users are watching and then use that information to tailor and deliver targeted advertisements to consumers. By identifying the broadcast and cable shows, video games, over-the-top content like Netflix, and other applications that users are viewing, smart TVs can compile detailed profiles about users' preferences and characteristics. Recent reports even suggest that smart TVs can identify users' political affiliations based on whether they watch conservative or liberal media outlets. This information about consumers' viewing habits, by itself or in combination with the troves of additional personal data collected online and across other devices, allows companies to personalize advertisements based on detailed dossiers of individual users. Advertisements can then be sent to customers' computers, phones, or any other device that shares the smart TVs' internet connection.¹

Regrettably, smart TV users may not be aware of the extent to which their televisions are collecting sensitive information about their viewing habits. Recent reports suggest that Samba TV, one of the largest companies tracking smart TV users' viewing behavior, offers consumers the opportunity to enable their tracking service, but does not provide sufficient information about its privacy practices to ensure users can make truly informed decisions.² For example, when prompting consumers to opt-into their 'Interactive TV' service, Samba TV denotes that the service allows users to obtain "exclusive content and special offers," but does not clearly convey how much sensitive information about a user will be collected or whether the data will be used for targeted advertisements across different devices.³

¹ Sapna Maheshwari, *How smart TVs in Millions of U.S. Homes Track More Than What's On Tonight*, N.Y. TIMES (July 5, 2018), <https://www.nytimes.com/2018/07/05/business/media/tv-viewer-tracking.html>.

² *See id.*

³ *See id.*

Congress has long recognized the unique privacy concerns raised by data companies tracking and collecting information about the content viewers watch on television. In 1984, Congress required cable operators to detail their data practices, and required these operators to receive consent prior to the collection or disclosure of this sensitive information.⁴ Two decades later, Congress extended these protections to satellite carriers.⁵ However, these protections do not cover data companies using internet connectivity, rather than cable or satellite systems, to track smart TV users' viewing habits.

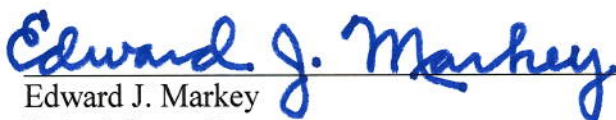
Similarly recognizing the privacy concerns raised by smart TVs, the FTC has begun taking action. In December 2016, the FTC held a workshop on the issues surrounding smart TV tracking of consumer viewing habits.⁶ In February 2017, after investigating VIZIO, one of the world's largest manufacturers and sellers of smart TVs, the FTC reached a settlement with the company, resolving charges that VIZIO had "installed software on its TVs to collect viewing data on 11 million consumer TVs without consumers' knowledge or consent."⁷

Televisions have entered a new era, but that does not mean that users' sensitive information no longer deserves protection. The content consumers watch is private, and it should not be assumed that customers want companies to track and use information on their viewing habits. Any entity collecting and using sensitive information should comprehensively and concisely detail who will have access to that data, how that data will be used, and what steps will be taken to protect that information. Users should then be given the opportunity to affirmatively consent to the collection and use of their sensitive information, while still having access to the core functions of smart TV technology.

In light of the recent reports described above, we respectfully request that the FTC continue its efforts on smart TVs and launch an investigation into the privacy policies and practices of smart TV manufacturers.

Thank you for your attention to this important matter.

Sincerely,


Edward J. Markey
United States Senator


Richard Blumenthal
United States Senator

⁴ See 47 U.S.C. § 551.

⁵ See 47 U.S.C. § 338(i).

⁶ Federal Trade Commission, *Fall Technology Series: smart TV*, FTC.GOV (Dec. 7, 2016), <https://www.ftc.gov/news-events/events-calendar/2016/12/fall-technology-series-smart-tv>.

⁷ Press Release, Federal Trade Commission, VIZIO to Pay \$2.2 Million to FTC, State of New Jersey to Settle Charges It Collected Viewing Histories on 11 Million smart Televisions without Users' Consent (Feb. 6, 2017), <https://www.ftc.gov/news-events/press-releases/2017/02/vizio-pay-22-million-ftc-state-new-jersey-settle-charges-it>.